

HOUSE BILL 3004

By Williams R

AN ACT to amend Tennessee Code Annotated, Title 20;
Title 29; Title 39 and Title 40, relative to privacy.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-101(b)(1), is amended by adding the language "or for the purpose of obtaining a photograph in violation of § 39-13-609" after the language "law enforcement officer" and before the language "under this section".

SECTION 2. Tennessee Code Annotated, Section 39-13-302(b), is amended by deleting the period at the end of the subsection and adding the following language thereto:

; provided, however, if the offense is committed for the purpose of obtaining a photograph in violation of § 39-13-609, then the maximum fine shall be five thousand dollars (\$5,000).

SECTION 3. Tennessee Code Annotated, Title 39, Chapter 13, Part 6, is amended by adding the following as a new section thereto:

39-13-609.

(a) As used in this section:

(1)

(A) "Commercial purpose" means an action is taken:

(i) With the expectation of a sale, financial gain, or in return for other consideration; or

(ii) With the intent to sell, publish or transmit an item for consideration, regardless of whether the action is completed; and

(B) Commercial purpose does not include the transmission, post or display of an item, image, sound recording or other physical impression on a social network;

(2) "Photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission of any individual; and

(3) "Social network" means any online community of people who share interests and activities, or who are interested in exploring the interests and activities of others, and which provides ways for users to interact.

(b) It is an offense for a person to intentionally use a device designed to amplify or increase the visibility of an individual to obtain a photograph of that individual for a commercial purpose where:

(1) The person using the device knows that the individual subject is located in a private place where that individual has a reasonable expectation to be safe from casual or hostile intrusion or surveillance; and

(2) The individual has not given consent to be photographed, or in the case of a minor, the minor's parent or guardian has not given consent for the minor to be photographed.

(c) For purposes of subdivision (b)(1), "private place" does not include a place to which the public or a substantial group of the public has access.

(d) This section shall not apply to criminalize the otherwise lawful actions of a law enforcement officer in the course of law enforcement duties.

(e) A violation of subsection (b) or (c) is a Class A misdemeanor; provided, that the maximum fine shall be five thousand dollars (\$5,000).

(f) The defendant may be subject to disgorgement to the victim, of any proceeds or other consideration obtained as a result of the violation of this section.

(g) Nothing in this section shall preclude prosecution under any other applicable offense.

SECTION 4. Tennessee Code Annotated, Section 39-14-405(f), is amended by adding the following at the end of the subsection:

; except, that if the offense is committed for the purpose of obtaining a photograph in violation of § 39-13-609, the maximum fine shall be five thousand dollars (\$5,000).

SECTION 5. Tennessee Code Annotated, Section 39-14-407(a), is amended by adding the following at the end of the first sentence:

; except, that if the offense is committed for the purpose of obtaining a photograph in violation of § 39-13-609, the maximum fine shall be five thousand dollars (\$5,000).

SECTION 6. Tennessee Code Annotated, Section 55-10-205(d), is amended by adding the following language at the end of the subsection:

; except, that if the offense is committed for the purpose of obtaining a photograph in violation of § 39-13-609, the maximum fine shall be five thousand dollars (\$5,000).

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect July 1, 2012, the public welfare requiring it.